

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

United States of America,

Plaintiff,

v.

Honorable Sean F. Cox

Kery Linn Mahan,

Cr. Case No. 05-50070

Defendant.

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**ORDER DENYING MOTION FOR JUDGMENT OF ACQUITTAL**

This matter is currently before the Court on Defendant Kery Linn Mahan's oral Motion for Judgment of Acquittal Pursuant to Rule 29.

In considering a motion for judgment of acquittal under FED. R. CRIM. P. 29, this Court must determine whether, after reviewing the evidence in the light most favorable to the prosecution, any rational trier of fact could find the elements of the crime beyond a reasonable doubt. *United States v. Abner*, 35 F.3d 251, 253 (6th Cir. 1994); *United States v. Meyer*, 359 F.3d 820, 826 (6th Cir. 1979). In doing so, the Court does not weight the evidence, consider the credibility of witnesses, or substitute its judgment for that of the jury. *Id.*

The Sixth Circuit has explained that a defendant claiming insufficiency of the evidence "bears a very heavy burden." *Abner*, 35 F.3d at 253. On review, all evidence must be construed in a manner most favorable to the Government. Moreover, circumstantial evidence alone is sufficient to sustain a conviction. *Id.*

Having considered Defendant's motion, and viewing the evidence presented in the light most favorable to the prosecution, the Court concludes that a rational trier of fact could find the essential elements of the crime beyond a reasonable doubt.

Accordingly, **IT IS ORDERED** that Defendant's Motion for Judgment of Acquittal is **DENIED.**

**IT IS SO ORDERED.**

s/Sean F. Cox  
Sean F. Cox  
United States District Judge

Dated: December 22, 2008

I hereby certify that a copy of the foregoing document was served upon counsel and/or the parties of record on December 22, 2008, by electronic and/or ordinary mail.

s/Jennifer Hernandez  
Case Manager